

§ 58-58-268. Viatical settlement antifraud initiatives.

(a) Viatical settlement providers and viatical settlement brokers shall have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. At the discretion of the Commissioner, the Commissioner may order, or a licensee may request and the Commissioner may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section.

(b) Antifraud initiatives shall include:

- (1) Fraud investigators, who may be viatical settlement provider employees or viatical settlement broker employees or independent contractors; and
- (2) An antifraud plan, which shall be submitted to the Commissioner. The antifraud plan shall include, but not be limited to:
 - a. A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;
 - b. A description of the procedures for reporting possible fraudulent viatical settlement acts to the Commissioner;
 - c. A description of the plan for antifraud education and training of underwriters and other personnel; and
 - d. A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

(c) Antifraud plans submitted to the Commissioner are privileged and confidential, are not public records, and are not subject to discovery or subpoena in a civil or criminal action. (2001-436, s. 3.)